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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,500	08/29/2001	Thomas John Nelson	P1062P2P1	7274

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EXAMINER

MAI, LANNA

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/941,500

Applicant(s)

NELSON, THOMAS JOHN

Examiner

Lanna Mai

Art Unit

3637

NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 55-58 and 63-82 is/are pending in the application.
- 4a) Of the above claim(s) 63-65, 70-73 and 78-80 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 55-58, 66-69, 74-77, 81 and 82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/29/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claims 63-65, 70-73 and 78-80 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 13 filed on June 03, 2002. Claims 55-58 were elected which were readable on fig. 18. Claims 55-58 and fig. 18, at the time the election was made, do not include the recess elements.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 55-58, 66-69, 74-77, 81, 82 are rejected under 35 U.S.C. 102 (b) as being anticipated by Swedish publication SE 8202 375-5.

Swedish publication shows in fig. 2 an elongated connector/track having a base (3), projection (5) extending vertically from the base to a first height and consists of identical right and left halves (5, 5). The top portion of each half includes identical extensions wherein the combined width of the extensions is less than the width of the base. The extensions include at least one angled portion (12) obliquely sloped. The projection extends the entire length of the connector as shown in fig. 1. Two protrusions (11) extending vertically from the base to a second height, which is substantially smaller than the first height, and extend the entire length of the connector shown in fig. 1. The

Art Unit: 3637

protrusions spaced apart from the projection, and being located on either side of the projection beyond the lateral extent of the extensions. The protrusions each includes tapered surfaces (14, 15) extending outwardly from a top portion of the protrusions.

Alternatively, claims 67, 69 and 82 can be rejected as follows:

Claims 67, 69 and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swedish publication as applied to claims 66, 68 and 81 above, and further in view of Howorth. The Swedish publication shows the protrusions (11) having at least one tapered surface (15) and the other surface (14) is not clearly shown as being tapered. In case applicant argues that 14 is not a tapered surface, then the Swedish publication does not show the protrusions with tapered surfaces. Howorth shows a connector (36) having protrusions (39, 44) having tapered surfaces (fig. 9) to provide better support and better mating surfaces to the panel (24). Therefore, it would have been obvious to one skilled in the art to modify the connector of the Swedish publication to include protrusions with tapered surfaces as taught by Howorth to provide better support and better mating surfaces to the panel.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

Art Unit: 3637

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 55-58, 66-69, 74-77, 81, 82 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 20, 24, 25, 27, 63-66 of copending Application No. 10/265,900. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant application are a subcombination of the claims of the copending application 10/265,900.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 55-58, 66-69, 74-77, 81, 82 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 8-11 of U.S. Patent No.6,449,918. Although the conflicting claims are not identical, they are not patentably distinct from each other because the scope of claims is the same.

Applicant's arguments with respect to claim 55-58, 66-69, 74-77, 81, 82 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3637

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to Lanna Mai at telephone number 703-308-2486.

Lm

4-16-04

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

